

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**David F. Davis**

Petitioner-Appellant,

**v.**

**Polk County Board of Review,**

Respondent-Appellee.

**ORDER**

**Docket No. 09-77-1248  
Parcel No. 03153-003-000**

On May 5, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, David F. Davis, was self-represented and submitted evidence in support of his petition. The Polk County Board of Review designated Assistant County Attorney David Hibbard as its legal representative. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

David F. Davis is the owner of a commercially classified property located at 4150 Maple Street, Des Moines, Iowa. The property consists of a 44,160 square-foot site improved with a two-story, eight-unit apartment complex, built in 1967 and containing 6570 square feet of gross finished area. There is 3800 square feet of paved, off-street parking. The property had a January 1, 2009, assessment of \$251,500, representing \$70,700 in land value and \$180,800 in improvement value.

Davis protested to the Polk County Board of Review regarding the 2009 assessment for this parcel. The protest was based on the following grounds: 1) the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), stating that the property had a total

value of \$185,336 to \$200,000; 2) there is an error in the assessment under section 441.37(1)(d); and 3) there has been a downward change in the value since the last assessment under sections 441.37(1) and 441.35(3). The Board of Review gave partial relief, reducing the original January 1, 2009, assessment of \$251,500 to \$234,000, allocated \$55,000 to land value and \$179,000 in improvement value.

Davis then appealed to this Board, reasserting his property is over-assessed and there has been a downward change. Davis did not claim an error to this Board, but did claim the assessment is not equitable under section 441.37(1)(a). We note in a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change separately and consider this claim as a claim of over-assessment. Additionally, while equity was not directly claimed at the Board of Review it was considered by it as evidenced by its decision for relief and based upon evidence submitted to it from the assessor's office. The appraiser for the assessor's office provided the Board of Review with an analysis and recommended reduction to the subject property's assessment because it "was not equitable with similar property in the area." Both the Board of Review and Davis submitted evidence and argument on the equity claim. Therefore, we will also consider the equity claim.

In his petition to the Board of Review, Davis submitted a letter dated May 4, 2009, outlining why he believes his property has a value of \$185,336 to \$200,000. He arrived at these numbers by comparing his eight-unit apartment complex to a neighboring twenty-four unit complex located at 4145 E. University. He compared the larger complex's assessed value (as of the date of the letter) of \$556,000 to his original assessment of \$251,500. He noted the larger complex has a per-unit assessment of \$23,167 compared to his per-unit assessment of \$31,438. He explained that by "extrapolating out the assessed value on the first property [4151 E. University], it can be determined

that the second property's [subject] assessed value would be \$185,336." The per-unit assessed value of \$23,167, applied to the subject's eight-unit improvement, results in a conclusion of \$185,336. Davis also believes the original assessment for the land value was incorrect, as his larger-than-necessary site does not generate income for an apartment complex. Davis comments further that accounting for differences in lot size an assessed value on his property as high as \$200,000 would be supported.

The Board of Review considered the evidence and agreed with Davis in part, reducing the original assessment of \$251,500 to \$234,000 with the bulk of this \$17,500 reduction occurring primarily in the land value. The Board reduced the improvements by \$1800 and the land value by \$15,700.

No one testified for the Board of Review at hearing, but we note the Board of Review's appraiser analysis did not agree with Davis' single equity comparable located at 4151 E. University. The appraiser asserts that more comparable properties are located at 4210 and 4200 Knob Hill. Both are apartments and nearly identical to the subject in terms of size, unit count, and location. The only difference between these two properties and the subject, according to the appraiser, is the site size. The subject's lot is over an acre and the excess land does not contribute any value to the income producing property. The appraiser recommends addressing the excess land with a factor, and indicates the new cost approach value of \$237,100 is near the indicated income approach to value of \$230,610. The appraiser also noted that while the property was originally assessed near its 2003 purchase price and that it was listed for sale at the time of the Board of Review petition for \$285,000; there was no evidence in the market or the income to support the list price. We note the analysis indicates a value of \$276,713 based upon sales comparables, but the appraiser gave equal weight to the cost and income approach to determine a rounded value of \$234,000.

While the Board of Review recognized and adjusted for excess land, as well as considering the income approach, Davis still considers the reduction to \$234,000 as being greater than market value.



Davis testified he believes 4151 E. University clearly demonstrates inequity in terms of a per-unit assessment. Davis offered limited new evidence, relying again, solely upon the neighboring property as an equity comparable. In a new letter to this Board, dated July 10, 2009, Davis adjusted the assessed value of 4151 E. University to \$580,000 to accurately reflect the entire property, situated on two parcels. This indicates a per-unit assessment of \$24,167 compared to his new assessment of \$234,000, representing \$29,250 per unit. Davis contends that regardless of unit count there should be no difference in the per-unit value of assessments.

Roberta McAfee, with McAfee Realty, testified on behalf of Davis. She acknowledged that the per-unit value of a property would decrease as the number of units increase. While she acknowledged this basic economic principle, she still believed the difference of \$5083 per unit between the subject property versus the neighboring property was "large." However, she did not offer a professional opinion in regards to a per unit value difference that she would consider reasonable.

McAfee was the real estate agent who sold the subject property to Davis in 2003. McAfee also managed the property from 2003 to 2006. In 2009, McAfee resumed her management role for the property. She stated she was amazed at the deterioration that took place in three years time, and while there has been improvement in the overall upkeep of the subject property since her return she felt that compared to 4151 E. University, rents and demand for the subject units were lower as of January 1, 2009.

When asked what she believed the correct value of the subject property was, McAfee stated \$225,000 to \$230,000. While we find McAfee to be honest and credible, she offered no evidence such as comparable sales, analysis or a fully developed income approach to support her opinion.

Based upon the foregoing, the Appeal Board finds there is insufficient evidence to support the claim that the subject property is assessed at greater than market value or that there is inequity in the assessment compared to other similar properties.

### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

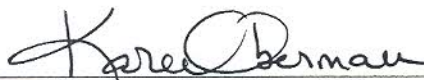
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Davis did not provide this Board with persuasive evidence that the current assessed valuation is more than authorized by law; he also failed to provide substantial evidence of its fair market value.


To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). Davis did not provide this Board with persuasive evidence that the current assessment is inequitable when compared to other like properties. The Board of Review provided two comparables located at 4200 and 4210 Knob Hill which offer similar location, style and unit count which have a current per-unit assessment of \$29,187 and \$29,562 respectively. These comparables bracket the subject's per-unit assessment of \$29,250.


In the opinion of the Appeal Board, the evidence does not support the claims brought before this Board. We, therefore, affirm the assessment of the subject property located at 4150 Maple Street, Des Moines, Iowa, as determined by the Polk County Board of Review as of January 1, 2009.

THE APPEAL BOARD ORDERS the assessment of the David F. Davis property, located at 4150 Maple Street, Des Moines, Iowa, as of January 1, 2009, set by the Polk County Board of Review, is affirmed.

Dated this 9 day of June, 2010

  
Karen Oberman, Presiding Officer

  
Richard Stradley, Board Member

  
Jacqueline Rypma, Board Member



Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6-9</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>David F. Davis</u>